

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
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CHAPTER 187

HOUSE BILL 2391

AN ACT

AMENDING SECTIONS 4-101, 4-202, 4-205.02, 4-213, 4-241, 4-243.02, 4-244, 4-246, 28-3309 AND 28-3320, ARIZONA REVISED STATUTES; RELATING TO ALCOHOLIC BEVERAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-101, Arizona Revised Statutes, is amended to
3 read:

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used. Act of violence does not include the use of nonlethal
12 devices by a peace officer.

13 2. "Aggrieved party" means a person who resides at, owns or leases
14 property within a one mile radius of a premises proposed to be licensed and
15 who filed a written request with the department to speak in favor of or
16 opposition to the issuance of the license no later than sixty days after the
17 filing of the application or fifteen days after action by the local governing
18 body, whichever is later.

19 3. "Beer" means any beverage obtained by the alcoholic fermentation,
20 infusion or decoction of barley malt, hops, or other ingredients not
21 drinkable, or any combination of them.

22 4. "Board" means the state liquor board.

23 5. "Bona fide guest" means:

24 (a) A person who is actually a houseguest or a person whose presence
25 as a guest is in response to a specific and personal invitation.

26 (b) In the case of a club that meets the criteria prescribed in
27 paragraph 7, subdivision (a) of this section, a current member of the armed
28 services of the United States who presents proper military identification and
29 any member of a recognized veterans' organization of the United States and of
30 any country allied with the United States during current or past wars or
31 through treaty arrangements.

32 6. "Broken package" means any container of spirituous liquor on which
33 the United States tax seal has been broken or removed, or from which the cap,
34 cork or seal placed thereupon by the manufacturer has been removed.

35 7. "Club" includes any of the following organizations where the sale
36 of spirituous liquor for consumption on the premises is made to members only:

37 (a) A post, chapter, camp or other local unit composed solely of
38 veterans and its duly recognized auxiliary which has been chartered by the
39 Congress of the United States for patriotic, fraternal or benevolent purposes
40 and which has, as the owner, lessee or occupant, operated an establishment
41 for that purpose in this state.

42 (b) A chapter, aerie, parlor, lodge or other local unit of an American
43 national fraternal organization which has as the owner, lessee or occupant
44 operated an establishment for fraternal purposes in this state. An American
45 national fraternal organization as used in this subdivision shall actively

1 operate in not less than thirty-six states or have been in active continuous
2 existence for not less than twenty years.

3 (c) A hall or building association of a local unit mentioned in
4 subdivisions (a) and (b) of this paragraph, all of the capital stock of which
5 is owned by the local unit or the members, and which operates the clubroom
6 facilities of the local unit.

7 (d) A golf club which has more than fifty bona fide members and which
8 owns, maintains or operates a bona fide golf links together with a clubhouse.

9 (e) A social club with more than one hundred bona fide members who are
10 actual residents of the county in which it is located, that owns, maintains
11 or operates club quarters, is authorized and incorporated to operate as a
12 nonprofit club under the laws of this state, and has been continuously
13 incorporated and operating for a period of not less than one year. The club
14 shall have had, during this one year period, a bona fide membership with
15 regular meetings conducted at least once each month, and the membership shall
16 be and shall have been actively engaged in carrying out the objects of the
17 club. The club's membership shall consist of bona fide dues paying members
18 paying at least six dollars per year, payable monthly, quarterly or annually,
19 which have been recorded by the secretary of the club, and the members at the
20 time of application for a club license shall be in good standing having for
21 at least one full year paid dues. At least fifty-one per cent of the members
22 shall have signified their intention to secure a social club license by
23 personally signing a petition, on a form prescribed by the board, which shall
24 also include the correct mailing address of each signer. The petition shall
25 not have been signed by a member at a date earlier than thirty days prior to
26 the filing of the petition. The club shall qualify for exemption from the
27 payment of state income taxes under title 43. It is the intent of this
28 paragraph that a license shall not be granted to a club which is, or has
29 been, primarily formed or activated to obtain a license to sell liquor, but
30 solely to a bona fide club, where the sale of liquor is incidental to the
31 main purposes of the club.

32 (f) An airline club operated by or for airlines which are certificated
33 by the United States government and which maintain or operate club quarters
34 located at airports with international status.

35 8. "Company" or "association", when used in reference to a
36 corporation, includes successors or assigns.

37 9. "Control" means the power to direct or cause the direction of the
38 management and policies of an applicant, licensee or controlling person,
39 whether through the ownership of voting securities or a partnership interest,
40 by agreement or otherwise. Control is presumed to exist if a person has the
41 direct or indirect ownership of or power to vote ten per cent or more of the
42 outstanding voting securities of the applicant, licensee or controlling
43 person or to control in any manner the election of one or more of the
44 directors of the applicant, licensee or controlling person. In the case of a
45 partnership, control is presumed to mean the general partner or a limited

1 partner who holds ten per cent or more of the voting rights of the
2 partnership. For the purposes of determining the percentage of voting
3 securities owned, controlled or held by a person, there shall be aggregated
4 with the voting securities attributed to the person the voting securities of
5 any other person directly or indirectly controlling, controlled by or under
6 common control with the other person, or by an officer, partner, employee or
7 agent of the person or by a spouse, parent or child of the person. Control
8 is also presumed to exist if a creditor of the applicant, licensee or
9 controlling person holds a beneficial interest in ten per cent or more of the
10 liabilities of the licensee or controlling person.

11 10. "Controlling person" means a person directly or indirectly
12 possessing control of an applicant or licensee.

13 11. "Department" means the department of liquor licenses and control.

14 12. "Director" means the director of the department of liquor licenses
15 and control.

16 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
17 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
18 any of them with any vegetable or other substance, alcohol bitters, bitters
19 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
20 mixture or preparation, whether patented or otherwise, which may in
21 sufficient quantities produce intoxication.

22 14. "Domestic farm winery" means a winery in the United States or in a
23 territory or possession of the United States that holds a license pursuant to
24 section 4-205.04.

25 15. "Domestic microbrewery" means a brewery in the United States or in
26 a territory or possession of the United States that meets the requirements of
27 section 4-205.08.

28 16. "Employee" means any person who performs any service on licensed
29 premises on a full-time, part-time or contract basis with consent of the
30 licensee, whether or not the person is denominated an employee, independent
31 contractor or otherwise. Employee does not include a person exclusively on
32 the premises for musical or vocal performances, for repair or maintenance of
33 the premises or for the delivery of goods to the licensee.

34 17. "Government license" means a license to serve and sell spirituous
35 liquor on specified premises available only to a county, city, town or state
36 university or the Arizona coliseum and exposition center upon application by
37 the governing body of a county, city, town or state university or the Arizona
38 exposition and state fair board.

39 18. "Legal drinking age" means ~~the age of~~ twenty-one years OF AGE or
40 older.

41 19. "License" means a license or an interim retail permit issued
42 pursuant to ~~the provisions of~~ this title.

43 20. "License fees" means fees collected for license issuance, license
44 application, license renewal, interim permit issuance and license transfer
45 between persons or locations.

1 21. "Licensee" means a person who has been issued a license or an
2 interim retail permit pursuant to ~~the provisions of this title or a special~~
3 event licensee.

4 22. "Manager" means a natural person who meets the standards required
5 of licensees and WHO has authority to organize, direct, carry on, control or
6 otherwise operate a licensed business on a temporary or full-time basis.

7 23. "Off-sale retailer" means any person operating a bona fide
8 regularly established retail liquor store selling spirituous liquors, wines
9 and beer, and any established retail store selling commodities other than
10 spirituous liquors and engaged in the sale of spirituous liquors only in the
11 original unbroken package, to be taken away from the premises of the retailer
12 and to be consumed off the premises.

13 24. "On-sale retailer" means any person operating an establishment
14 where spirituous liquors are sold in the original container for consumption
15 on or off the premises or in individual portions for consumption on the
16 premises.

17 25. "Person" includes a partnership, limited liability company,
18 association, company or corporation, as well as a natural person.

19 26. "Premises" or "licensed premises" means the area from which the
20 licensee is authorized to sell, dispense or serve spirituous liquors under
21 the provision of the license. PREMISES OR LICENSED PREMISES INCLUDES A PATIO
22 THAT IS NOT CONTIGUOUS TO THE REMAINDER OF THE PREMISES OR LICENSED PREMISES
23 IF THE PATIO IS SEPARATED FROM THE REMAINDER OF THE PREMISES OR LICENSED
24 PREMISES BY A PUBLIC OR PRIVATE WALKWAY OR DRIVEWAY NOT TO EXCEED THIRTY
25 FEET, SUBJECT TO RULES THE DIRECTOR MAY ADOPT TO ESTABLISH CRITERIA FOR
26 NONCONTIGUOUS PREMISES.

27 27. "Registered mail" includes certified mail.

28 28. "Registered retail agent" means any person who is authorized
29 pursuant to section 4-222 to purchase spirituous liquors for and on behalf of
30 himself and other retail licensees.

31 29. "Repeated acts of violence" means two or more acts of violence
32 occurring within seven days, three or more acts of violence occurring within
33 thirty days or acts of violence occurring with any other similar frequency
34 which the director determines to be unusual or deserving of review.

35 30. "Sell" includes soliciting or receiving an order for, keeping or
36 exposing for sale, directly or indirectly delivering for value, peddling,
37 keeping with intent to sell and trafficking in.

38 31. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
39 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
40 beverage, absinthe, a compound or mixture of any of them or of any of them
41 with any vegetable or other substance, alcohol bitters, bitters containing
42 alcohol, any liquid mixture or preparation, whether patented or otherwise,
43 which produces intoxication, fruits preserved in ardent spirits, and
44 beverages containing more than one-half of one per cent of alcohol by volume.

1 32. "Vehicle" means any means of transportation by land, water or air,
2 and includes everything made use of in any way for such transportation.

3 33. "Vending machine" means a machine that dispenses merchandise
4 through the means of coin, token, credit card or other nonpersonal means of
5 accepting payment for merchandise received.

6 34. "Veteran" means a person who has served in the United States air
7 force, army, navy, marine corps or coast guard, as an active nurse in the
8 services of the American red cross, in the army and navy nurse corps in time
9 of war, or in any expedition of the armed forces of the United States, and
10 who has received a discharge other than dishonorable.

11 35. "Voting security" means any security presently entitling the owner
12 or holder of the security to vote for the election of directors of an
13 applicant, licensee or controlling person.

14 36. "Wine" means the product obtained by the fermentation of grapes or
15 other agricultural products containing natural or added sugar or any such
16 alcoholic beverage fortified with grape brandy and containing not more than
17 twenty-four per cent of alcohol by volume.

18 Sec. 2. Section 4-202, Arizona Revised Statutes, is amended to read:

19 4-202. Qualifications of licensees; application; background
20 information; prior convictions

21 A. Every spirituous liquor licensee, other than a club licensee, a
22 corporation licensee, a limited liability company licensee or an out-of-state
23 licensee, shall be a citizen of the United States and a bona fide resident of
24 this state or a legal resident alien who is a bona fide resident of this
25 state. If a partnership, each partner shall be a citizen of the United
26 States and a bona fide resident of this state or a legal resident alien who
27 is a bona fide resident of this state, except that for a limited partnership
28 an individual general partner is required to meet the qualifications of an
29 individual licensee, a corporate general partner is required to meet the
30 qualifications of a corporate licensee and a limited partner is not required
31 to be a bona fide resident of this state. If a corporation or limited
32 liability company, it shall be a domestic corporation or a foreign
33 corporation or a limited liability company that has qualified to do business
34 in this state. A person shall hold a club license, corporation license,
35 limited liability company license, partnership license or out-of-state
36 license through an agent who shall be a natural person and meet the
37 qualifications for licensure, except that an agent for an out-of-state
38 license as specified in section 4-209, subsection B, paragraph 2 need not be
39 a resident of this state. For the purposes of this subsection, "agent" means
40 a person who is designated by an applicant or licensee to receive
41 communications from the department and to file documents and sign documents
42 for filing with the department on behalf of the applicant or licensee.

1 B. A person shall file an application for a spirituous liquor license
2 on a form prescribed by the director. The director shall require any
3 applicant and may require any controlling person, other than a bank or
4 licensed lending institution, to furnish background information and to submit
5 a full set of fingerprints to the department. The department of liquor
6 licenses and control shall submit the fingerprints to the department of
7 public safety for the purpose of obtaining a state and federal criminal
8 records check pursuant to section 41-1750 and Public Law 92-544. The
9 department of public safety may exchange this fingerprint data with the
10 federal bureau of investigation. If a license is issued or transferred when
11 fees are waived pursuant to section 4-209, subsection I, no additional
12 background check is required if the person has already completed a background
13 investigation in connection with the continuing business.

14 C. Each applicant or licensee shall designate a person who shall be
15 responsible for managing the premises. The designated person may be the
16 applicant or licensee. The manager shall be a natural person and shall meet
17 all the requirements for licensure. The same person may be designated as the
18 manager for more than one premises owned by the same licensee. Notice of a
19 change in the manager shall be filed with the director within thirty days
20 after a change.

21 D. No license shall be issued to any person who, within one year
22 before application, has had a license revoked. THE DIRECTOR SHALL NOT ISSUE
23 AN INTERIM PERMIT OR RESTAURANT LICENSE TO ANY PERSON WHO, AT THE SAME
24 LOCATION, HAS BEEN REQUIRED TO SURRENDER A RESTAURANT LICENSE PURSUANT TO
25 SECTION 4-205.02, SUBSECTION D OR SECTION 4-213 UNTIL TWELVE MONTHS AFTER THE
26 DATE OF THE SURRENDER. No license shall be issued to or renewed for any
27 person who, within five years before application, has been convicted of a
28 felony, or convicted of an offense in another state that would be a felony in
29 this state. For a conviction of a corporation to be a basis for a denial
30 under the provisions of this section, the limitations that are provided in
31 section 4-210, subsection A, paragraph 8 shall apply. No corporation shall
32 have its annual license issued or renewed unless it has on file with the
33 department a list of its officers and directors and any stockholders who own
34 ten per cent or more of the corporation.

35 E. The department of liquor licenses and control shall receive
36 criminal history record information from the department of public safety for
37 applicants for employment with the department of liquor licenses and control
38 or for a license issued by the department of liquor licenses and control.

39 F. The department shall not issue or renew a license for any person
40 who on the request of the director fails to provide the department with
41 complete financial disclosure statements indicating all financial holdings of
42 the person or any other person in or relating to the license applied for,
43 including all cosignatories on financial holdings, land, buildings, leases or
44 other forms of indebtedness that the applicant has incurred or will incur.

1 Sec. 3. Section 4-205.02, Arizona Revised Statutes, is amended to
2 read:

3 4-205.02. Restaurant license; issuance; regulatory provisions;
4 expiration; definitions

5 A. The director may issue a restaurant license to any restaurant in
6 this state ~~which~~ THAT is regularly open for the serving of food to guests for
7 compensation and ~~which~~ THAT has suitable kitchen facilities connected with
8 the restaurant for keeping, cooking and preparing foods required for ordinary
9 meals.

10 B. The director shall issue the license in the name of the restaurant
11 upon application for the license by the owner or lessee of the restaurant,
12 provided the applicant is otherwise qualified to hold a spirituous liquor
13 license. The holder of such license is subject to the penalties prescribed
14 for any violation of the law relating to alcoholic beverages.

15 C. The holder of a restaurant license may sell and serve spirituous
16 liquors solely for consumption on the licensed premises. For the purpose of
17 this subsection, "licensed premises" may include rooms, areas or locations in
18 which the restaurant normally sells or serves spirituous liquors pursuant to
19 regular operating procedures and practices and ~~which~~ THAT are contiguous to
20 the restaurant OR A NONCONTIGUOUS PATIO PURSUANT TO SECTION 4-101, PARAGRAPH
21 26. For the ~~purpose~~ PURPOSES of this subsection, a restaurant licensee must
22 submit proof of tenancy or permission from the landowner or lessor for all
23 property to be included in the licensed premises.

24 D. In addition to other grounds prescribed in this title ~~upon~~ ON which
25 a license may be revoked, the director may ~~revoke~~ REQUIRE THE HOLDER OF a
26 restaurant license issued pursuant to this section TO SURRENDER THE LICENSE
27 in any case in which the licensee ceases to operate as a restaurant, as
28 prescribed in subsection A of this section. THE SURRENDER OF A LICENSE
29 PURSUANT TO THIS SUBSECTION DOES NOT PREVENT THE DIRECTOR FROM REVOKING THE
30 LICENSE FOR OTHER GROUNDS PRESCRIBED IN THIS TITLE OR FOR MAKING DELIBERATE
31 MATERIAL MISREPRESENTATIONS TO THE DEPARTMENT REGARDING THE LICENSEE'S
32 EQUIPMENT, SERVICE OR ENTERTAINMENT ITEMS OR SEATING CAPACITY IN APPLYING FOR
33 THE RESTAURANT LICENSE.

34 E. Neither the director nor the board may initially issue a restaurant
35 license if either finds that there is sufficient evidence that the operation
36 will not satisfy the criteria adopted by the director for issuing a
37 restaurant license described in section 4-209, subsection B, paragraph 12.
38 The director shall issue a restaurant license only if the applicant has
39 submitted a plan for the operation of the restaurant. The plan shall be
40 completed on forms provided by the department and shall include listings of
41 all restaurant equipment and service items, the restaurant seating capacity
42 and other information requested by the department to substantiate that the
43 restaurant will operate in compliance with this section.

44 F. The holder of the license described in section 4-209, subsection B,
45 paragraph 12 who intends to alter the seating capacity or dimensions of a

1 restaurant facility shall notify the department in advance on forms provided
2 by the department.

3 G. For the ~~purpose~~ PURPOSES of this section:

4 1. "Gross revenue" means the revenue derived from all sales of food
5 and spirituous liquor on the licensed premises, regardless of whether the
6 sales of spirituous liquor are made under a restaurant license issued
7 pursuant to this section or under any other license that has been issued for
8 the premises pursuant to this article.

9 2. "Restaurant" means an establishment ~~which~~ THAT derives at least
10 forty per cent of its gross revenue from the sale of food, including sales of
11 food for consumption off the licensed premises if the amount of these sales
12 included in the calculation of gross revenue from the sale of food does not
13 exceed fifteen per cent of all gross revenue of the restaurant.

14 Sec. 4. Section 4-213, Arizona Revised Statutes, is amended to read:
15 4-213. Restaurant audit

16 A. The director may require a restaurant to submit an audit of its
17 records to demonstrate compliance with section 4-205.02. The director shall
18 not require an establishment to submit to such an audit more than once a year
19 after the initial twelve months of operation even if the establishment is
20 allowed to continue operating as a restaurant pursuant to subsection E of
21 this section.

22 B. Except as provided in subsection D of this section, the department
23 shall audit accounts, records and operations of a licensee that cover a
24 twelve month period. WHEN CONDUCTING AN AUDIT, THE DEPARTMENT SHALL USE
25 GENERALLY ACCEPTED AUDITING STANDARDS. An establishment that averages at
26 least forty per cent of its gross revenue from the sale of food during the
27 twelve month audit period shall be deemed to comply with the gross revenue
28 requirements of section 4-205.02. The twelve month audit period shall fall
29 within the sixteen months immediately preceding the beginning of the audit.

30 C. If the audit or a consent agreement that may be offered at the
31 discretion of the director and that is signed by the licensee and the
32 director reveals that the licensee did not meet the definition of a
33 restaurant as prescribed in section 4-205.02 and the percentage of food sales
34 determined by the audit or consent agreement was:

35 1. Less than thirty per cent, NOTWITHSTANDING SECTION 4-209,
36 SUBSECTION A, ~~the department shall revoke the~~ DIRECTOR SHALL DEEM THE
37 license TO HAVE BEEN SURRENDERED OR MAY REVOKE THE LICENSE AS PROVIDED IN
38 SECTION 4-205.02, SUBSECTION D.

39 2. At least thirty per cent but less than thirty-seven per cent, the
40 department shall allow the licensee a six month period to CONTINUE TO OPERATE
41 UNDER THE RESTAURANT LICENSE, DURING WHICH THE LICENSEE SHALL either:

42 (a) Replace the license with a bar or beer and wine bar license,
43 except that, at the end of that six month period, the department shall revoke
44 the restaurant license or the licensee shall surrender the restaurant
45 license.

1 (b) Obtain permission from the department to continue operating with a
2 restaurant license pursuant to subsection E of this section.

3 3. At least thirty-seven per cent but less than forty per cent, the
4 licensee shall be granted a period of one year to CONTINUE TO OPERATE UNDER
5 THE RESTAURANT LICENSE, DURING WHICH THE LICENSEE SHALL ATTEMPT TO increase
6 the food percentage to at least forty per cent. If the licensee does not
7 increase the percentage of food sales to at least forty per cent, the
8 department shall allow the licensee a six month period to CONTINUE TO OPERATE
9 UNDER THE RESTAURANT LICENSE, DURING WHICH THE LICENSEE SHALL either:

10 (a) Replace the license with a bar or beer and wine bar license,
11 except that, at the end of the six month period, the department shall revoke
12 the restaurant license or the licensee shall surrender the restaurant
13 license.

14 (b) Obtain permission from the department to continue operating with a
15 restaurant license pursuant to subsection E of this section.

16 D. The department may conduct an audit of a licensee described in
17 section 4-209, subsection B, paragraph 12 after twelve months following the
18 beginning of operations as a restaurant by the licensee to determine
19 compliance by the licensee with section 4-205.02, except that the department
20 may conduct an audit of a licensee within the first twelve months of
21 operation if the licensee has made a substantial modification in the
22 restaurant equipment, service or entertainment items or seating capacity
23 during that twelve month period, in which event the department may conduct
24 the audit for a period of less than twelve months.

25 E. A restaurant licensee may continue to operate with its restaurant
26 license if its food sales are at least thirty per cent and less than forty
27 per cent and the department approves the continuation of the restaurant
28 license pursuant to this subsection and subsections C, F, G, H and I of this
29 section. The department shall not approve more than fifteen restaurant
30 licenses pursuant to this subsection and subsections C, F, G, H and I of this
31 section in each of the fiscal years 2006-2007 and 2007-2008. The department
32 shall not approve any additional licenses pursuant to this subsection and
33 subsections C, F, G, H and I of this section from consent agreements entered
34 into or audits conducted in any fiscal year after 2007-2008. The department
35 may approve a request submitted by the licensee to continue to operate with
36 its restaurant license only if all of the following apply at the time the
37 licensee files its request with the department:

38 1. The restaurant has a sufficient number of cooks, food preparation
39 personnel and wait staff to prepare and provide the restaurant services that
40 are necessary for the menu offered by the licensee.

41 2. The restaurant's equipment is of a sufficient grade and the size of
42 the restaurant's kitchen is appropriate to the menu offered and the kitchen
43 occupies not less than twenty per cent of the total floor space of the
44 licensed premises.

1 3. The menu is of a type consistent with a restaurant operation. In
2 making a determination pursuant to this paragraph, the department may
3 consider the proportion of food sales to alcohol sales, the price of
4 spirituous liquor beverages and food served by the licensee and whether the
5 licensee provides reduced price or complimentary food and beverages.

6 4. Not more than thirty per cent of the public interior area floor
7 space consists of pool tables, dart or arcade games, barstools, cocktail
8 tables and similar types of seating and dance floors, and the aggregate area
9 of all dance floors on the premises is not greater than ten per cent of the
10 total floor space of the public area of the premises.

11 5. The name of the restaurant does not include terms associated with
12 alcohol consumption, such as "bar", "tavern", "pub", "spirits", "club",
13 "lounge", "cabaret", "cantina" or "saloon".

14 6. Disposable dinnerware and smallware, including dining utensils, are
15 not used except in outdoor areas.

16 F. If the department intends to approve a restaurant's continuation of
17 operation pursuant to subsection E of this section:

18 1. The department shall advise the governing body of the city or town
19 if the premises are within the incorporated limits of a city or town or the
20 county of the department's intent.

21 2. The city or town or the county shall post a notice for at least
22 twenty days on the licensed premises that the licensee has made a request for
23 continuation to operate with a restaurant license and invite bona fide
24 residents who own, lease or reside on property within a one mile radius of
25 the licensed premises to file written comments with the department regarding
26 the request within thirty days of the first posting of the notice.

27 G. If the local jurisdiction through its governing body or its
28 authorized agent does not object within ninety days, the licensee may
29 continue its operation as a restaurant.

30 H. If the department intends to disapprove a restaurant's continuation
31 of operation pursuant to subsection E of this section, or if the local
32 jurisdiction or its agent timely objects to its continuation, the department
33 shall set a hearing before the board and the local jurisdiction shall post a
34 notice of the hearing for a period of at least twenty days on the licensed
35 premises. The city or town or the county may testify at the hearing and bona
36 fide residents who own, lease or reside on property within a one mile radius
37 of the licensed premises may testify before the board regarding the
38 licensee's request. The board shall determine whether the restaurant may
39 continue its operation based on consideration of the criteria listed in
40 subsection E of this section.

41 I. A restaurant licensee may continue to operate with its restaurant
42 license pursuant to subsection E of this section, if the restaurant and the
43 restaurant licensee continue to meet the requirements of this subsection,
44 subsection E of this section and any other statute. As a condition of
45 continuing operation as a restaurant under subsection E of this section, the

1 department may require the licensee to specifically acknowledge the
2 representations made by the licensee regarding its operations in support of
3 the licensee's continuing operation as a restaurant. Notwithstanding
4 subsection A of this section, if the licensee changes its operation in any
5 way that materially and detrimentally affects the representations made by the
6 licensee, the department may audit the licensee or terminate the license
7 without an audit.

8 Sec. 5. Section 4-241, Arizona Revised Statutes, is amended to read:

9 4-241. Selling or giving liquor to underage person; illegally
10 obtaining liquor by underage person; violation;
11 classification; definitions

12 ~~A. A licensee, an employee or any other person who questions or has~~
13 ~~reason to question whether or not a person ordering, purchasing, attempting~~
14 ~~to purchase or otherwise procuring or attempting to procure the serving or~~
15 ~~delivery of spirituous liquor is under the legal drinking age shall require~~
16 ~~the person to exhibit a written instrument of identification and may require~~
17 ~~the person on a card to be retained by the licensee to sign the person's~~
18 ~~name, the date, and the number of such identification.~~

19 A. IF A LICENSEE, AN EMPLOYEE OF THE LICENSEE OR ANY OTHER PERSON
20 QUESTIONS OR HAS REASON TO QUESTION THAT THE PERSON ORDERING, PURCHASING,
21 ATTEMPTING TO PURCHASE OR OTHERWISE PROCURING OR ATTEMPTING TO PROCURE THE
22 SERVING OR DELIVERY OF SPIRITUOUS LIQUOR OR ENTERING A PORTION OF A LICENSED
23 PREMISES WHEN THE PRIMARY USE IS THE SALE OR SERVICE OF SPIRITUOUS LIQUOR IS
24 UNDER THE LEGAL DRINKING AGE, THE LICENSEE, EMPLOYEE OF THE LICENSEE OR OTHER
25 PERSON SHALL DO ALL OF THE FOLLOWING:

26 1. DEMAND IDENTIFICATION FROM THE PERSON.

27 2. EXAMINE THE IDENTIFICATION TO DETERMINE THAT THE IDENTIFICATION
28 REASONABLY APPEARS TO BE A VALID, UNALTERED IDENTIFICATION THAT HAS NOT BEEN
29 DEFACED.

30 3. EXAMINE THE PHOTOGRAPH IN THE IDENTIFICATION AND DETERMINE THAT THE
31 PERSON REASONABLY APPEARS TO BE THE SAME PERSON IN THE IDENTIFICATION.

32 4. DETERMINE THAT THE DATE OF BIRTH IN THE IDENTIFICATION INDICATES
33 THE PERSON IS NOT UNDER THE LEGAL DRINKING AGE.

34 B. A LICENSEE OR AN EMPLOYEE OF THE LICENSEE WHO FOLLOWS THE
35 PROCEDURES PRESCRIBED IN SUBSECTION A OF THIS SECTION AND WHO RECORDS AND
36 RETAINS A RECORD OF THE PERSON'S IDENTIFICATION ON THIS PARTICULAR VISIT IS
37 NOT IN VIOLATION OF SUBSECTION J OF THIS SECTION OR SECTION 4-244, PARAGRAPH
38 9 OR 22. THIS DEFENSE APPLIES TO ACTIONS OF THE LICENSEE AND ALL EMPLOYEES
39 OF THE LICENSEE AFTER THE PROCEDURE HAS BEEN EMPLOYED DURING THE PARTICULAR
40 VISIT TO THE LICENSED PREMISES BY THE PERSON. A LICENSEE OR AN EMPLOYEE OF
41 THE LICENSEE IS NOT REQUIRED TO DEMAND AND EXAMINE IDENTIFICATION OF A PERSON
42 PURSUANT TO SUBSECTION A OF THIS SECTION IF, DURING THIS VISIT TO THE
43 LICENSED PREMISES BY THE PERSON, THE LICENSEE OR ANY EMPLOYEE OF THE LICENSEE
44 HAS PREVIOUSLY FOLLOWED THE PROCEDURE PRESCRIBED IN SUBSECTION A OF THIS
45 SECTION.

1 C. PROOF THAT THE LICENSEE OR EMPLOYEE FOLLOWED THE ENTIRE PROCEDURE
2 PRESCRIBED IN SUBSECTION A OF THIS SECTION BUT DID NOT RECORD AND RETAIN A
3 RECORD AS PRESCRIBED IN SUBSECTION B OF THIS SECTION IS AN AFFIRMATIVE
4 DEFENSE TO A CRIMINAL CHARGE UNDER SUBSECTION J OF THIS SECTION OR UNDER
5 SECTION 4-244, PARAGRAPH 9 OR 22 OR A DISCIPLINARY ACTION UNDER SECTION 4-210
6 FOR A VIOLATION OF SUBSECTION J OF THIS SECTION OR SECTION 4-244, PARAGRAPHS
7 9 OR 22. THIS DEFENSE APPLIES TO ACTIONS OF THE LICENSEE AND ALL EMPLOYEES OF
8 THE LICENSEE AFTER THE PROCEDURE HAS BEEN EMPLOYED DURING THE PARTICULAR
9 VISIT TO THE LICENSED PREMISES BY THE PERSON.

10 D. A LICENSEE OR AN EMPLOYEE WHO HAS NOT RECORDED AND RETAINED A
11 RECORD OF THE IDENTIFICATION PRESCRIBED BY SUBSECTION B OF THIS SECTION IS
12 PRESUMED NOT TO HAVE FOLLOWED ANY OF THE ELEMENTS PRESCRIBED IN SUBSECTION A
13 OF THIS SECTION.

14 E. FOR PURPOSES OF SECTION 4-244, PARAGRAPH 22, A LICENSEE OR AN
15 EMPLOYEE WHO HAS NOT RECORDED AND RETAINED A RECORD OF THE IDENTIFICATION
16 PRESCRIBED BY SUBSECTION B OF THIS SECTION IS PRESUMED TO KNOW THAT THE
17 PERSON ENTERING OR ATTEMPTING TO ENTER A PORTION OF A LICENSED PREMISES WHEN
18 THE PRIMARY USE IS THE SALE OR SERVICE OF SPIRITUOUS LIQUOR IS UNDER THE
19 LEGAL DRINKING AGE.

20 F. IT IS A DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS SECTION IF
21 THE PERSON ORDERING, PURCHASING, ATTEMPTING TO PURCHASE OR OTHERWISE
22 PROCURING OR ATTEMPTING TO PROCURE THE SERVING OR DELIVERY OF SPIRITUOUS
23 LIQUOR OR TO ENTER A PORTION OF A LICENSED PREMISES WHEN THE PRIMARY USE IS
24 THE SALE OR SERVICE OF SPIRITUOUS LIQUOR IS NOT UNDER THE LEGAL DRINKING AGE.

25 G. A PERSON PENALIZED FOR A VIOLATION OF SUBSECTION J OF THIS SECTION
26 OR SECTION 4-244, PARAGRAPH 22 SHALL NOT BE ADDITIONALLY PENALIZED FOR A
27 VIOLATION OF SUBSECTION A OF THIS SECTION RELATING TO THE SAME EVENT.

28 H. THE DEFENSES PROVIDED IN THIS SECTION DO NOT APPLY TO A LICENSEE OR
29 AN EMPLOYEE WHO HAS ACTUAL KNOWLEDGE THAT THE PERSON EXHIBITING THE
30 IDENTIFICATION IS UNDER THE LEGAL DRINKING AGE.

31 I. ANY OF THE FOLLOWING TYPES OF RECORDS ARE ACCEPTABLE FORMS FOR
32 RECORDING THE PERSON'S IDENTIFICATION:

33 1. A WRITING CONTAINING THE TYPE OF IDENTIFICATION, THE DATE OF
34 ISSUANCE OF THE IDENTIFICATION, THE NAME ON THE IDENTIFICATION, THE DATE OF
35 BIRTH ON THE IDENTIFICATION AND THE SIGNATURE OF THE PERSON.

36 2. AN ELECTRONIC FILE OR PRINTED DOCUMENT PRODUCED BY A DEVICE THAT
37 READS THE PERSON'S AGE FROM THE IDENTIFICATION AND THAT REQUIRES THE
38 SIGNATURE OF THE PERSON.

39 3. A DATED AND SIGNED PHOTOCOPY OF THE IDENTIFICATION.

40 4. A PHOTOGRAPH OF THE IDENTIFICATION.

41 5. A DIGITAL COPY OF THE IDENTIFICATION.

42 J. An off-sale retail licensee or employee of an off-sale retail
43 licensee shall require an instrument of identification from any customer who
44 appears to be under twenty-seven years of age and who is using a
45 drive-through or other physical feature of the licensed premises that allows

1 a customer to purchase spirituous liquor without leaving the customer's
2 vehicle.

3 K. The following written instruments are the only acceptable types of
4 identification:

5 1. An unexpired driver license issued by any state or Canada if the
6 license includes a picture of the licensee.

7 2. A nonoperating identification license issued pursuant to section
8 28-3165 or an equivalent form of identification license issued by any state
9 or Canada if the license includes a picture of the person and the person's
10 date of birth.

11 3. An armed forces identification card.

12 4. A valid unexpired passport or border crossing identification card
13 which THAT is issued by a government or A voter card THAT IS issued by the
14 government of Mexico and which IF THE PASSPORT OR CARD contains a photograph
15 of the person and the person's date of birth.

16 ~~B. A licensee, an employee or any other person who sells, gives,~~
17 ~~serves or furnishes spirituous liquor to a person who is under the legal~~
18 ~~drinking age without having recorded and retained a record of the person's~~
19 ~~age, an electronic file or a printed document produced by a device that reads~~
20 ~~the person's age from the instrument of identification and obtains a~~
21 ~~signature from any person who the licensee has reason to question if the~~
22 ~~identification belonged to the person presenting the identification, or a~~
23 ~~dated and signed photocopy of the instrument of identification exhibited as~~
24 ~~prescribed by subsection A of this section, is deemed to have constructive~~
25 ~~knowledge of the person's age. This section shall not shift the presumption~~
26 ~~of constructive knowledge of a person's age for anyone using a device that~~
27 ~~reads the person's age from the instrument of identification, if a reasonable~~
28 ~~person would have reason to question if the identification belonged to the~~
29 ~~person presenting the identification.~~

30 ~~G. L. A person who is under the legal drinking age and who~~
31 ~~misrepresents the person's age to any person by means of a written instrument~~
32 ~~of identification with the intent to induce a person to sell, serve, give or~~
33 ~~furnish spirituous liquor contrary to law is guilty of a class 1 misdemeanor.~~

34 ~~H. M. A person who is under the legal drinking age and who solicits~~
35 ~~another person to purchase, sell, give, serve or furnish spirituous liquor~~
36 ~~contrary to law is guilty of a class 3 misdemeanor.~~

37 ~~E. N. A person who is under the legal drinking age and who uses a~~
38 ~~fraudulent or false written instrument of identification or identification of~~
39 ~~another person or uses a valid license or identification of another person to~~
40 ~~gain access to a licensed establishment is guilty of a class 1 misdemeanor.~~

41 ~~F. O. A person who uses a driver or nonoperating identification~~
42 ~~license in violation of subsection C or E of this section is subject to~~
43 ~~suspension of the driver or nonoperating identification license as provided~~
44 ~~in section 28-3309. A person who does not have a valid driver or~~
45 ~~nonoperating identification license and who uses a driver or nonoperating~~

1 identification license of another in violation of subsection C or E of this
2 section has the person's right to apply for a driver or nonoperating
3 identification license suspended as provided by section 28-3309.

4 ~~G~~ P. A person who knowingly influences the sale, giving or serving
5 of spirituous liquor to a person under the legal drinking age by
6 misrepresenting the age of such person or who orders, requests, receives or
7 procures spirituous liquor from any licensee, employee or other person with
8 the intent of selling, giving or serving it to a person under the legal
9 drinking age is guilty of a class 1 misdemeanor. A LICENSEE OR EMPLOYEE OF A
10 LICENSEE WHO HAS ACTUAL KNOWLEDGE THAT A PERSON IS UNDER THE LEGAL DRINKING
11 AGE AND WHO ADMITS THE PERSON INTO ANY PORTION OF THE LICENSED PREMISES IN
12 VIOLATION OF SECTION 4-244, PARAGRAPH 22, IS IN VIOLATION OF THIS SUBSECTION.
13 In addition to other penalties provided by law, a judge may suspend a driver
14 license issued to or the driving privilege of a person for not more than
15 thirty days for a first conviction and not more than six months for a second
16 or subsequent conviction under this subsection.

17 ~~H~~ Q. A person who is of legal drinking age and who is an occupant of
18 unlicensed premises is guilty of a class 1 misdemeanor if both of the
19 following apply:

20 1. Such person knowingly allows a gathering on such unlicensed
21 premises of two or more persons who are under the legal drinking age and who
22 are neither:

23 (a) Members of the immediate family of such person.

24 (b) Permanently residing with such person.

25 2. Such person knows or should know that one or more of the persons
26 under the legal drinking age is in possession of or consuming spirituous
27 liquor on the unlicensed premises.

28 ~~I~~ R. For the purposes of subsection H of this section, "occupant"
29 means a person who has legal possession or the legal right to exclude others
30 from the unlicensed premises.

31 ~~J~~ S. A peace officer shall forward or electronically transfer to the
32 director of the department of transportation the affidavit required by
33 section 28-3310 if the peace officer has arrested a person for the commission
34 of an offense for which, on conviction, suspension of the license or
35 privilege to operate a motor vehicle is required by section 28-3309,
36 subsection A, B or D, or if the peace officer has confiscated a false
37 identification document used by the person to gain access to licensed
38 premises.

39 ~~K~~ T. A person who acts under a program of testing compliance with
40 this title ~~which~~ THAT is approved by the director is not in violation of
41 section 4-244.

42 ~~L~~ U. Law enforcement agencies may use persons who are under the
43 legal drinking age to test compliance with this section and section 4-244,
44 paragraph 9 by a licensee if the law enforcement agency has reasonable
45 suspicion that the licensee is violating this section or section 4-244.

1 paragraph 9. A person who is under the legal drinking age and who purchases
2 or attempts to purchase spirituous liquor under the direction of a law
3 enforcement agency pursuant to this subsection is immune from prosecution for
4 that purchase or attempted purchase. Law enforcement agencies may use a
5 person under the legal drinking age pursuant to this subsection only if:

6 1. The person is at least fifteen but not more than nineteen years of
7 age.

8 2. The person is not employed on an incentive or quota basis.

9 3. The person's appearance is that of a person who is under the legal
10 drinking age.

11 4. A photograph of the person is taken no more than twelve hours
12 before the purchase or attempted purchase. The photograph shall accurately
13 depict the person's appearance and attire. A licensee or an employee of a
14 licensee who is cited for selling spirituous liquor to a person under the
15 legal drinking age pursuant to this subsection shall be permitted to inspect
16 the photograph immediately after the citation is issued. The person's
17 appearance at any trial or administrative hearing that results from a
18 citation shall not be substantially different from the person's appearance at
19 the time the citation was issued.

20 5. The person places, receives and pays for the person's order of
21 spirituous liquor. An adult shall not accompany the person onto the premises
22 of the licensee.

23 6. The person does not consume any spirituous liquor.

24 M. V. The department may adopt rules to carry out the purposes of
25 this section.

26 Sec. 6. Section 4-243.02, Arizona Revised Statutes, is amended to
27 read:

28 4-243.02. Sale of beer, wine or distilled spirits by producer;
29 limitations

30 A. A person who holds a producer's license may sell beer produced by
31 the producer through the producer's own on-sale retail premises if:

32 1. The producer also holds an on-sale retail license.

33 2. The retail sale of the beer is on or adjacent to the premises of
34 the producer.

35 B. A person who holds a producer's license may sell wine OR DISTILLED
36 SPIRITS produced by the producer at the producer's licensed premises.

37 Sec. 7. Section 4-244, Arizona Revised Statutes, is amended to read:

38 4-244. Unlawful acts

39 It is unlawful:

40 1. For a person to buy for resale, sell or deal in spirituous liquors
41 in this state without first having procured a license duly issued by the
42 board.

43 2. For a person to sell or deal in alcohol for beverage purposes
44 without first complying with this title.

1 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
2 dispose of or give spirituous liquor to any person other than a licensee
3 except in sampling wares as may be necessary in the ordinary course of
4 business, except in donating spirituous liquor to a nonprofit organization
5 which has obtained a special event license for the purpose of charitable fund
6 raising activities or except in donating spirituous liquor with a cost to the
7 distiller, brewer or wholesaler of up to one hundred dollars in a calendar
8 year to an organization that is exempt from federal income taxes under
9 section 501(c) of the internal revenue code and not licensed under this
10 title.

11 4. For a distiller, vintner or brewer to require a wholesaler to offer
12 or grant a discount to a retailer, unless the discount has also been offered
13 and granted to the wholesaler by the distiller, vintner or brewer.

14 5. For a distiller, vintner or brewer to use a vehicle for trucking or
15 transportation of spirituous liquors unless there is affixed to both sides of
16 the vehicle a sign showing the name and address of the licensee and the type
17 and number of the person's license in letters not less than three and
18 one-half inches in height.

19 6. For a person to take or solicit orders for spirituous liquors
20 unless the person is a salesman or solicitor of a licensed wholesaler, a
21 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
22 a registered retail agent.

23 7. For any retail licensee to purchase spirituous liquors from any
24 person other than a solicitor or salesman of a wholesaler licensed in this
25 state.

26 8. For a retailer to acquire an interest in property owned, occupied
27 or used by a wholesaler in his business, or in a license with respect to the
28 premises of the wholesaler.

29 9. Except as provided in paragraphs 10 and 11 of this section, for a
30 licensee or other person to sell, furnish, dispose of or give, or cause to be
31 sold, furnished, disposed of or given, to a person under the legal drinking
32 age or for a person under the legal drinking age to buy, receive, have in the
33 person's possession or consume spirituous liquor. This paragraph shall not
34 prohibit the employment by an off-sale retailer of persons who are at least
35 sixteen years of age to check out, if supervised by a person on the premises
36 who is at least nineteen years of age, package or carry merchandise,
37 including spirituous liquor, in unbroken packages, for the convenience of the
38 customer of the employer, if the employer sells primarily merchandise other
39 than spirituous liquor.

40 10. For a licensee to employ a person under the age of nineteen years
41 to manufacture, sell or dispose of spirituous liquors. This paragraph shall
42 not prohibit the employment by an off-sale retailer of persons who are at
43 least sixteen years of age to check out, if supervised by a person on the
44 premises who is at least nineteen years of age, package or carry merchandise,
45 including spirituous liquor, in unbroken packages, for the convenience of the

1 customer of the employer, if the employer sells primarily merchandise other
2 than spirituous liquor.

3 11. For an on-sale retailer to employ a person under the age of
4 nineteen years in any capacity connected with the handling of spirituous
5 liquors. This paragraph does not prohibit the employment by an on-sale
6 retailer of a person under the age of nineteen years who cleans up the tables
7 on the premises for reuse, removes dirty dishes, keeps a ready supply of
8 needed items and helps clean up the premises.

9 12. For a licensee, when engaged in waiting on or serving customers, to
10 consume spirituous liquor or for a licensee or on-duty employee to be on or
11 about the licensed premises while in an intoxicated or disorderly condition.

12 13. For an employee of a retail licensee, during that employee's
13 working hours or in connection with such employment, to give to or purchase
14 for any other person, accept a gift of, purchase for himself or consume
15 spirituous liquor, except that:

16 (a) An employee of a licensee, during that employee's working hours or
17 in connection with the employment, while the employee is not engaged in
18 waiting on or serving customers, may give spirituous liquor to or purchase
19 spirituous liquor for any other person.

20 (b) An employee of an on-sale retail licensee, during that employee's
21 working hours or in connection with the employment, while the employee is not
22 engaged in waiting on or serving customers, may taste samples of beer or wine
23 not to exceed four ounces per day or distilled spirits not to exceed two
24 ounces per day provided by an employee of a wholesaler or distributor who is
25 present at the time of the sampling.

26 (c) An employee of an on-sale retail licensee, under the supervision
27 of a manager as part of the employee's training and education, while not
28 engaged in waiting on or serving customers may taste samples of distilled
29 spirits not to exceed two ounces per educational session or beer or wine not
30 to exceed four ounces per educational session, and provided that a licensee
31 shall not have more than two educational sessions in any thirty day period.

32 (d) An unpaid volunteer who is a bona fide member of a club and who is
33 not engaged in waiting on or serving spirituous liquor to customers may
34 purchase for himself and consume spirituous liquor while participating in a
35 scheduled event at the club. An unpaid participant in a food competition may
36 purchase for himself and consume spirituous liquor while participating in the
37 food competition.

38 (e) An unpaid volunteer of a special event licensee under section
39 4-203.02 may purchase and consume spirituous liquor while not engaged in
40 waiting on or serving spirituous liquor to customers at the special event.
41 This subdivision does not apply to an unpaid volunteer whose responsibilities
42 include verification of a person's legal drinking age, security or the
43 operation of any vehicle or heavy machinery.

44 14. For a licensee or other person to serve, sell or furnish spirituous
45 liquor to a disorderly or obviously intoxicated person, or for a licensee or

1 employee of the licensee to allow or permit a disorderly or obviously
2 intoxicated person to come into or remain on or about the premises, except
3 that a licensee or an employee of the licensee may allow an obviously
4 intoxicated person to remain on the premises for a period of time of not to
5 exceed thirty minutes after the state of obvious intoxication is known or
6 should be known to the licensee in order that a nonintoxicated person may
7 transport the obviously intoxicated person from the premises. For THE
8 purposes of this section, "obviously intoxicated" means inebriated to the
9 extent that a person's physical faculties are substantially impaired and the
10 impairment is shown by significantly uncoordinated physical action or
11 significant physical dysfunction that would have been obvious to a reasonable
12 person.

13 15. For an on-sale or off-sale retailer or an employee of such retailer
14 to sell, dispose of, deliver or give spirituous liquor to a person between
15 the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00
16 a.m. on Sundays.

17 16. For a licensee or employee to knowingly permit any person on or
18 about the licensed premises to give or furnish any spirituous liquor to any
19 person under the age of twenty-one or knowingly permit any person under the
20 age of twenty-one to have in the person's possession spirituous liquor on the
21 licensed premises.

22 17. For an on-sale retailer or an employee of such retailer to allow a
23 person to consume or possess spirituous liquors on the premises between the
24 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m.
25 on Sundays.

26 18. For an on-sale retailer to permit an employee or for an employee to
27 solicit or encourage others, directly or indirectly, to buy the employee
28 drinks or anything of value in the licensed premises during the employee's
29 working hours. No on-sale retailer shall serve employees or allow a patron
30 of the establishment to give spirituous liquor to, purchase liquor for or
31 drink liquor with any employee during the employee's working hours.

32 19. For an off-sale retailer or employee to sell spirituous liquor
33 except in the original unbroken container, to permit spirituous liquor to be
34 consumed on the premises or to knowingly permit spirituous liquor to be
35 consumed on adjacent property under the licensee's exclusive control.

36 20. For a person to consume spirituous liquor in a public place,
37 thoroughfare or gathering. The license of a licensee permitting a violation
38 of this paragraph on the premises shall be subject to revocation. This
39 paragraph does not apply to the sale of spirituous liquors on the premises of
40 and by an on-sale retailer. This paragraph also does not apply to a person
41 consuming beer from a broken package in a public recreation area or on
42 private property with permission of the owner or lessor or on the walkways
43 surrounding such private property.

44 21. For a person to have possession of or to transport spirituous
45 liquor which is manufactured in a distillery, winery, brewery or rectifying

1 plant contrary to the laws of the United States and this state. Any property
2 used in transporting such spirituous liquor shall be forfeited to the state
3 and shall be seized and disposed of as provided in section 4-221.

4 22. For an on-sale retailer or employee to allow a person under the
5 legal drinking age to remain in an area on the licensed premises during those
6 hours in which its primary use is the sale, dispensing or consumption of
7 alcoholic beverages after the licensee, or the licensee's employees, know or
8 should have known that the person is under the legal drinking age. An
9 on-sale retailer may designate an area of the licensed premises as an area in
10 which spirituous liquor will not be sold or consumed for the purpose of
11 allowing underage persons on the premises if the designated area is separated
12 by a physical barrier and at no time will underage persons have access to the
13 area in which spirituous liquor is sold or consumed. A LICENSEE OR AN
14 EMPLOYEE OF A LICENSEE MAY REQUIRE A PERSON WHO INTENDS TO ENTER A LICENSED
15 PREMISES OR A PORTION OF A LICENSED PREMISES WHERE PERSONS UNDER THE LEGAL
16 DRINKING AGE ARE PROHIBITED UNDER THIS SECTION TO EXHIBIT A WRITTEN
17 INSTRUMENT OF IDENTIFICATION THAT IS ACCEPTABLE UNDER SECTION 4-241 AS A
18 CONDITION OF ENTRY. The director, or a municipality, may adopt rules to
19 regulate the presence of underage persons on licensed premises provided the
20 rules adopted by a municipality are more stringent than those adopted by the
21 director. The rules adopted by the municipality shall be adopted by local
22 ordinance AND SHALL NOT INTERFERE WITH THE LICENSEE'S ABILITY TO COMPLY WITH
23 THIS PARAGRAPH. This paragraph does not apply:

24 (a) If the person under the legal drinking age is accompanied by a
25 spouse, parent or legal guardian of legal drinking age or is an on-duty
26 employee of the licensee.

27 (b) If the owner, lessee or occupant of the premises is a club as
28 defined in section 4-101, paragraph 7, subdivision (a) and the person under
29 the legal drinking age is any of the following:

30 (i) An active duty military service member.

31 (ii) A veteran.

32 (iii) A member of the United States army national guard or the United
33 States air national guard.

34 (iv) A member of the United States military reserve forces.

35 (c) To the area of the premises used primarily for the serving of food
36 during the hours when food is served.

37 23. For an on-sale retailer or employee to conduct drinking contests,
38 to sell or deliver to a person an unlimited number of spirituous liquor
39 beverages during any set period of time for a fixed price, to deliver more
40 than thirty-two ounces of beer, one liter of wine or four ounces of distilled
41 spirits in any spirituous liquor drink to one person at one time for that
42 person's consumption or to advertise any practice prohibited by this
43 paragraph.

1 24. For a licensee or employee to knowingly permit the unlawful
2 possession, use, sale or offer for sale of narcotics, dangerous drugs or
3 marijuana on the premises.

4 25. For a licensee or employee to knowingly permit prostitution or the
5 solicitation of prostitution on the premises.

6 26. For a licensee or employee to knowingly permit unlawful gambling on
7 the premises.

8 27. For a licensee or employee to knowingly permit trafficking or
9 attempted trafficking in stolen property on the premises.

10 28. For a licensee or employee to fail or refuse to make the premises
11 or records available for inspection and examination as provided in this title
12 or to comply with a lawful subpoena issued under this title.

13 29. For any person other than a peace officer, the licensee or an
14 employee of the licensee acting with the permission of the licensee to be in
15 possession of a firearm while on the licensed premises of an on-sale retailer
16 knowing such possession is prohibited. This paragraph shall not be construed
17 to include a situation in which a person is on licensed premises for a
18 limited time in order to seek emergency aid and such person does not buy,
19 receive, consume or possess spirituous liquor. This paragraph shall not
20 apply to hotel or motel guest room accommodations nor to the exhibition or
21 display of a firearm in conjunction with a meeting, show, class or similar
22 event.

23 30. For a licensee or employee to knowingly permit a person in
24 possession of a firearm other than a peace officer, the licensee or an
25 employee of the licensee acting with the permission of the licensee to remain
26 on the licensed premises or to serve, sell or furnish spirituous liquor to a
27 person in possession of a firearm while on the licensed premises of an
28 on-sale retailer. This paragraph shall not apply to hotel or motel guest
29 room accommodations nor to the exhibition or display of a firearm in
30 conjunction with a meeting, show, class or similar event. It shall be a
31 defense to action under this paragraph if the licensee or employee requested
32 assistance of a peace officer to remove such person.

33 31. For a licensee or employee to knowingly permit spirituous liquor to
34 be removed from the licensed premises, except in the original unbroken
35 package. This paragraph shall not apply to EITHER OF THE FOLLOWING:

36 (a) A person who removes a bottle of wine which has been partially
37 consumed in conjunction with a purchased meal from the licensed premises if
38 the A cork is reinserted INSERTED flush with the top of the bottle OR THE
39 BOTTLE IS OTHERWISE SECURELY CLOSED.

40 (b) A PERSON WHO IS IN LICENSED PREMISES THAT HAVE NONCONTIGUOUS
41 PORTIONS THAT ARE SEPARATED BY A PUBLIC OR PRIVATE WALKWAY OR DRIVEWAY AND
42 WHO TAKES SPIRITUOUS LIQUOR FROM ONE PORTION OF THE LICENSED PREMISES ACROSS
43 THE PUBLIC OR PRIVATE WALKWAY DIRECTLY TO THE OTHER PORTION OF THE LICENSED
44 PREMISES.

1 32. For a person who is obviously intoxicated to buy or attempt to buy
2 spirituous liquor from a licensee or employee of a licensee or to consume
3 spirituous liquor on licensed premises.

4 33. For a person under the age of twenty-one years to drive or be in
5 physical control of a motor vehicle while there is any spirituous liquor in
6 the person's body.

7 34. For a person under the age of twenty-one years to operate or be in
8 physical control of a motorized watercraft that is underway while there is
9 any spirituous liquor in the person's body. For the purposes of this
10 paragraph, "underway" has the same meaning prescribed in section 5-301.

11 35. For a licensee, manager, employee or controlling person to
12 purposely induce a voter, by means of alcohol, to vote or abstain from voting
13 for or against a particular candidate or issue on an election day.

14 36. For a licensee to fail to report an occurrence of an act of
15 violence to either the department or a law enforcement agency.

16 37. For a licensee to use a vending machine for the purpose of
17 dispensing spirituous liquor.

18 38. For a licensee to offer for sale a wine carrying a label including
19 a reference to Arizona or any Arizona city, town or geographic location
20 unless at least seventy-five per cent by volume of the grapes used in making
21 the wine were grown in Arizona.

22 39. For a retailer to knowingly allow a customer to bring spirituous
23 liquor onto the licensed premises, except that an on-sale retailer may allow
24 a wine and food club to bring wine onto the premises for consumption by the
25 club's members and guests of the club's members in conjunction with meals
26 purchased at a meeting of the club that is conducted on the premises and that
27 at least seven members attend. An on-sale retailer who allows wine and food
28 clubs to bring wine onto its premises under this paragraph shall comply with
29 all applicable provisions of this title and any rules adopted pursuant to
30 this title to the same extent as if the on-sale retailer had sold the wine to
31 the members of the club and their guests. For the purposes of this
32 paragraph, "wine and food club" means an association that has more than
33 twenty bona fide members paying at least six dollars per year in dues and
34 that has been in existence for at least one year.

35 40. For a person under the age of twenty-one years to have in the
36 person's body any spirituous liquor. In a prosecution for a violation of
37 this paragraph:

38 (a) Pursuant to section 4-249, it is a defense that the spirituous
39 liquor was consumed in connection with the bona fide practice of a religious
40 belief or as an integral part of a religious exercise and in a manner not
41 dangerous to public health or safety.

42 (b) Pursuant to section 4-226, it is a defense that the spirituous
43 liquor was consumed for a bona fide medicinal purpose and in a manner not
44 dangerous to public health or safety.

1 41. For an employee of a licensee to accept any gratuity, compensation,
2 remuneration or consideration of any kind to either:

3 (a) Permit a person who is under twenty-one years of age to enter any
4 portion of the premises where that person is prohibited from entering
5 pursuant to paragraph 22 of this section.

6 (b) Sell, furnish, dispose of or give spirituous liquor to a person
7 who is under twenty-one years of age.

8 42. For a person to purchase, offer for sale or use any device, machine
9 or process which mixes spirituous liquor with pure oxygen or another gas to
10 produce a vaporized product for the purpose of consumption by inhalation.

11 43. For a retail licensee or an employee of a retail licensee to sell
12 spirituous liquor to a person if the retail licensee or employee knows the
13 person intends to resell the spirituous liquor.

14 Sec. 8. Section 4-246, Arizona Revised Statutes, is amended to read:

15 4-246. Violation; classification

16 A. A person violating any provision of this title is guilty of a class
17 2 misdemeanor unless another classification is prescribed.

18 B. A person violating section 4-244, paragraph 9, 14, 33, 41 or 43 is
19 guilty of a class 1 misdemeanor.

20 C. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT MAY
21 SUSPEND THE PRIVILEGE TO DRIVE OF A PERSON UNDER EIGHTEEN YEARS OF AGE FOR A
22 PERIOD OF UP TO ONE HUNDRED EIGHTY DAYS ON RECEIVING THE RECORD OF THE
23 PERSON'S FIRST CONVICTION FOR A VIOLATION OF SECTION 4-244, PARAGRAPH 9.

24 ~~E.~~ D. In addition to any other penalty prescribed by law, a person
25 who is convicted of a violation of section 4-244, paragraph 41 shall pay a
26 fine of not less than five hundred dollars.

27 ~~E.~~ E. In addition to any other penalty prescribed by law, a person
28 who is convicted of a violation of section 4-241, ~~paragraph C, D~~ SUBSECTION
29 L, M or ~~E~~ N shall pay a fine of not less than two hundred fifty dollars.

30 Sec. 9. Section 28-3309, Arizona Revised Statutes, is amended to read:

31 28-3309. License suspension and denial; improper use by persons
32 under legal drinking age; improper use by persons
33 under eighteen years of age; providing spirituous
34 liquor to a minor; exceptions

35 A. The department shall promptly suspend a driver license or
36 nonoperating identification license issued to or the driving privilege of a
37 person who is under the legal drinking age and who is convicted of using a
38 false or lawfully issued license of this state or any other jurisdiction in
39 violation of section 4-241, subsection ~~E~~ L or ~~E~~ N for not less MORE than:

40 1. Six months for a first conviction.

41 2. Twelve months for a second or subsequent conviction.

42 B. The department shall promptly deny the right of an otherwise
43 qualified person to apply for a driver and identification license if the
44 person does not have a valid driver or identification license and the person
45 is convicted of using the driver or identification license of another person

1 in violation of section 4-241, subsection ~~G~~ L or ~~E~~ N or in violation of
2 section 13-3403.02, subsection C for not ~~less~~ MORE than:

3 1. Six months for a first conviction.

4 2. Twelve months for a second or subsequent conviction.

5 C. The department shall promptly suspend a driver license or
6 nonoperating identification license issued to or the driving privilege of a
7 person who is under eighteen years of age and who is convicted of using a
8 false or lawfully issued license of this state or any other jurisdiction in
9 violation of section 13-3403.02, subsection C for not less than:

10 1. Six months for a first conviction.

11 2. Twelve months for a second or subsequent conviction.

12 D. If a judge orders the suspension of a driver license or driving
13 privilege for a violation of section 4-241, subsection ~~G~~ P, the department
14 shall promptly suspend a driver license issued to or the driving privilege of
15 the person for the period of time ordered by the judge.

16 E. Subsection D of this section does not apply to any of the
17 following:

18 1. A parent who is over twenty-one years of age and who gives
19 spirituous liquor to the parent's child in a private residence.

20 2. A guardian who is over twenty-one years of age and who gives
21 spirituous liquor to the guardian's ward in a private residence.

22 3. A person who gives spirituous liquor to another person who is under
23 twenty-one years of age in conjunction with a religious service or ceremony
24 pursuant to section 4-249 if the spirituous liquor was lawfully purchased.

25 4. A title 4 licensee and its employees, as long as the licensee is
26 acting within the scope of its license and the employee is acting within the
27 scope of employment.

28 Sec. 10. Section 28-3320, Arizona Revised Statutes, is amended to
29 read:

30 28-3320. Suspension of license for persons under eighteen years
31 of age; notice; definition

32 A. In addition to the grounds for mandatory suspension or revocation
33 provided for in chapters 3, 4 and 5 of this title, the department shall
34 immediately suspend the driver license or privilege to drive or refuse to
35 issue a driver license or privilege to drive of a person who commits an
36 offense while under eighteen years of age as follows:

37 1. For a period of two years on receiving the record of the person's
38 conviction for a violation of section 4-244, paragraph 33, section 28-1381 or
39 section 28-1382.

40 2. For a period of three years on receiving the record of the person's
41 conviction for a violation of section 28-1383.

42 3. Until the person's eighteenth birthday on receiving the record of
43 the person's conviction for a violation of section 13-1602, subsection A,
44 paragraph 1 or section 13-1604, subsection A involving the damage or
45 disfigurement of property by graffiti.

1 4. Until the person's eighteenth birthday on receiving the record of
2 the person's conviction of criminal damage pursuant to section 13-1602,
3 subsection A, paragraph 5 or a violation of a city or town ordinance that
4 prohibits the type of criminal action prescribed in section 13-1602,
5 subsection A, paragraph 5.

6 5. Until the person's eighteenth birthday on receiving the record of
7 the person's conviction for a violation of any statute or ordinance involving
8 the purchase or possession of materials used for graffiti.

9 6. Until the person's eighteenth birthday on receiving the record of
10 the person's conviction for a violation of any provision of title 13,
11 chapter 34.

12 7. Until the person's eighteenth birthday or for a period of two years
13 on receiving the record of the person's conviction for a second or subsequent
14 violation of section 4-244, paragraph 9, if ordered by the court.

15 8. Until the person's eighteenth birthday on receiving the record of
16 the person's conviction of theft of a motor vehicle pursuant to section
17 13-1802, unlawful use of means of transportation pursuant to section 13-1803
18 or theft of means of transportation pursuant to section 13-1814.

19 B. If ordered by the court, the department shall restrict the person's
20 privilege to drive between the person's home, school and place of employment
21 during specified periods of time according to the person's school and
22 employment schedule.

23 C. If a person commits an offense prescribed in subsection A,
24 paragraph 1 of this section and the person's privilege to drive is restricted
25 as prescribed in subsection B of this section, the department shall issue a
26 special ignition interlock restricted driver license to the person pursuant
27 to section 28-1401.

28 D. IF ORDERED BY THE COURT PURSUANT TO SECTION 4-246, SUBSECTION C,
29 THE DEPARTMENT SHALL SUSPEND THE DRIVING PRIVILEGE OF A PERSON UNDER THE AGE
30 OF EIGHTEEN FOR A PERIOD OF UP TO ONE HUNDRED EIGHTY DAYS ON RECEIVING THE
31 RECORD OF THE PERSON'S FIRST CONVICTION FOR A VIOLATION OF SECTION 4-244,
32 PARAGRAPH 9.

33 E. For the purposes of this section, "conviction" means a final
34 conviction or judgment, including an order of the juvenile court finding that
35 a juvenile violated any provision of this title or committed a delinquent act
36 that if committed by an adult would constitute a criminal offense.

~~APPROVED BY THE GOVERNOR MAY 8, 2007.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2007.~~